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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

X17, INC., a California corporation,  
Plaintiffs

v.

MARIO LAVANDEIRA, dba Perez Hilton,  
and DOES 1 through 10, inclusive,

## Defendants.

Case No. CV 06-07608-VBF (JCx)

**OBJECTION TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT FOR FAILURE TO  
TIMELY AND PROPERLY FILE**

Hearing Date: January 28, 2008  
Time: 1:30 p.m.  
Courtroom: 9

X17, Inc. (“X17”), by and through its attorneys of record, and without waiving its right to file an Opposition at the appropriate time, objects to Defendant Mario Lavandeira’s Motion for Summary Judgment on the grounds that the document was not timely and properly filed and respectfully requests that this Court issue an order rejecting it based thereon.

Under this Court's Scheduling Order dated June 18, 2007, all motions in this case must be timely and properly filed by December 17, 2007. Furthermore, pursuant to this Court's General Orders 07-08, all documents in copyright infringement suits (such as the instant case) **must** be filed electronically beginning November 1, 2007. As District Court Executive and Clerk of the Court Sherri R. Carter made clear to all counsel in a letter dated

1 August 15, 2007 (a true and correct copy of which is attached as Exhibit A), “Effective  
2 November 1, 2007, the Court is expanding its **mandatory** electronic case filing (ECF)  
3 program to include all patent, trademark and copyright cases.” (Letter from Sherri R.  
4 Carter, August 15, 2007, Exhibit A) (emphasis added). As the Court’s website also  
5 unequivocally dictates, electronic filing in all patent, copyright and trademark cases is  
6 mandatory. Moreover, all attorneys of record in this district handling such cases were  
7 required to obtain appropriate training and register as ECF users “as soon as practicable but  
8 no later than ten days after notification that the case is subject to electronic filing.” C. D.  
9 Cal. General Order No. 07-08 IV.A, dated October 1, 2007.

10 Defendant’s Motion for Summary Judgment was not filed electronically by  
11 December 17, 2007, as required by this Court’s rules. Instead, it was filed by hand—a fact  
12 made plain by its failure to be entered until December 21, 2007. Moreover, counsel for  
13 Lavandeira does not appear to have yet signed up to file electronically, a fact made plain  
14 when Plaintiff’s counsel electronically filed its most recent Motion and it was not  
15 automatically served through the Court’s ECF system on opposing counsel.

16 This Court has already adopted a strict construction of its rules in this case,  
17 disallowing, based on an exacting interpretation of this Court’s Scheduling Order,  
18 Plaintiff’s Motion to Compel just days ago on the grounds that it was not filed on a timely  
19 basis. (*See* Magistrate Judge Chooljian’s Minutes Order of December 18, 2007 denying as  
20 untimely X17’s Motion to Compel Production of Documents). Defendant should be treated  
21 no differently than Plaintiff in this regard.

22 As this Local Rule 7-12 provides, “the failure to file any required paper, or the  
23 failure to file it within the deadline, may be deemed consent to the granting or denial of the  
24 motion.” C.D. Local Rule 7-12. As such, X17 respectfully requests an order rejecting  
25 Defendant’s Motion for Summary Judgment on the grounds that it was not timely and  
26 properly filed according to this Court’s rules.

1 Dated: December \_\_, 2007

2 **TURNER GREEN AFRASIABI & ARLEDGE LLP**

3 By: /s/ John Tehrani  
4 John Tehrani  
5 Attorneys for Plaintiff, X17, Inc.  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 26<sup>th</sup>, 2007, I caused to be electronically filed the foregoing **RESPONSE IN OPPOSITION TO MOTION TO COMPEL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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/s/ John Tehranian